IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.M.No.8164-C of 2006 in
R.S.A.No.1245 of 1998
Date of Decision:- 16.11.2006

Charanjit Kaur ....Appellant.

through
Shri Atul Lakhanpal, Advocate

vs.

Gurmit Singh ....Respondent

through
Shri Ram Vilas, Advocate for
Shri R.K.Gupta, Advocate

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CORAM:-HON'BLE MR.JUSTICE SURYA KANT.

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SURYA KANT, J.

C.M.No.8164-C of 2006

The prayer in this application is for vacation of the interim order dated 7.8.2000 vide which the parties were directed to maintain status quo regarding alienation and possession.

With the consent of learned counsel for the parties, the main case is taken up on board for final disposal.

Main Case.

This regular second appeal has been preferred by the appellant-wife (Charanjit Kaur) against her husband-Gurmit Singh (since deceased), challenging the judgments and decrees passed by the Courts below whereby the suit for declaration and permanent injunction filed by the deceased-husband of the appellant was decreed and the consent decree dated 10.8.1994 suffered by him in favour of his appellant-wife, was set aside.

It is not disputed that during the pendency of this appeal, respondent-husband (Gurmit Singh) has died. The appellant as well as their four minor children have already been brought on record as the legal representatives of the deceased vide order dated 7.9.2006 passed in Civil Miscellaneous Application No.8165-C of 2006.

There is no denial to the fact that as a result of the death of the respondent, his entire estate including the disputed property, stands inherited by the appellant and their four children by way of natural succession and in equal shares. Since there is no conflict of interest between the appellant and her minor children, it appears that the appeal has also become infructuous as there is no *lis* between the four children and their mother i.e. the appellant.

It is also an admitted fact that the appellant is the next friend and natural guardian of her four minor children. In order to protect the interest of the minor children, it is accordingly directed that though the appellant shall be entitled to manage the entire estate of deceased Gurmit Singh until the children attain majority, she, however, shall not alienate their shares or create encumbrance thereupon without prior permission of the Court of competent jurisdiction.

Consequently, the impugned judgments and decrees passed by the Courts below are modified to the extent indicated above and the appeal is accordingly disposed of in the terms stated above.

November 16, 2006 **(SURYA KANT)**
poonam **JUDGE**